

Department of Health and Human Services

§ 101.75

the failure shall be stated on the original document.

§ 101.72 Compulsory process.

(a) If a person refuses to permit a duly authorized representative of the Department of Health and Human Services to have access to any premises or to the source of information necessary to the administration or the enforcement of the Defense Production Act and other applicable statutes, this part, or official actions, HHS, through its authorized representative may seek compulsory process. Compulsory process means the institution of appropriate legal action, including ex parte application for an inspection warrant or its equivalent, in any forum of appropriate jurisdiction.

(b) Compulsory process may be sought in advance of an audit, investigation, or other inquiry, if, in the judgment of the Secretary there is reason to believe that a person will refuse to permit an audit, investigation, or other inquiry, or that other circumstances exist which make such process desirable or necessary.

§ 101.73 Notification of failure to comply.

(a) At the conclusion of an audit, investigation, or other inquiry, or at any other time, HHS may inform the person in writing of HHS's position regarding that person's non-compliance with the requirements of the DPA and other applicable statutes, this part, or an official action.

(b) In cases where HHS determines that failure to comply with the provisions of the DPA and other applicable statutes, this part, or an official action was inadvertent, the person may be informed in writing of the particulars involved and the corrective action to be taken. Failure to take corrective action may then be construed as a willful violation of DPA and other applicable statutes, this part, or an official action.

§ 101.74 Violations, penalties, and remedies.

(a) Willful violation of the provisions of the DPA, the priorities provisions of the Selective Service Act and related statutes (when applicable), this part, or

an official action, is a crime and upon conviction, a person may be punished by fine or imprisonment, or both. The maximum penalties provided by the DPA are a \$10,000 fine, or one year in prison, or both. The maximum penalties provided by the Selective Service Act and related statutes are a \$50,000 fine, or three years in prison, or both.

(b) The Government may also seek an injunction from a court of appropriate jurisdiction to prohibit the continuance of any violation of, or to enforce compliance with, the DPA, this part, or an official action.

(c) In order to secure the effective enforcement of the DPA and other applicable statutes, this part, and official actions, the following are prohibited:

(1) No person may solicit, influence or permit another person to perform any act prohibited by, or to omit any act required by, the DPA and other applicable statutes, this part, or an official action.

(2) No person may conspire or act in concert with any other person to perform any act prohibited by, or to omit any act required by, the DPA and other applicable statutes, this part, or an official action.

(3) No person shall deliver any item if the person knows or has reason to believe that the item will be accepted, re-delivered, held, or used in violation of the DPA and other applicable statutes, this part, or an official action. In such instances, the person must immediately notify HHS that, in accordance with this provision, delivery has not been made.

§ 101.75 Compliance conflicts.

If compliance with any provision of the DPA and other applicable statutes, this part, or an official action would prevent a person from filling a rated order or from complying with another provision of the DPA and other applicable statutes, this part, or an official action, the person must immediately notify the Secretary, as specified in § 101.93, for resolution of the conflict.